

§§ 1777.44—1777.99 [Reserved]

§ 1777.100 OMB control number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and assigned OMB control number 0570-0001. Public reporting burden for this collection of information is estimated to vary from 5 to 30 hours per response with an average of 17.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

PART 1778—EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

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SOURCE: 62 FR 33475, June 19, 1997, unless otherwise noted.

§ 1778.1 General.

(a) This part outlines policies and procedures for making Emergency Community Water Assistance Grants authorized under Section 306A of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926(a)), as amended. Any processing or servicing activity conducted pursuant to this part involving authorized assistance to Agency employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this title. Applicants for this assistance are required to identify any known relationship or association with an Agency employee.

(b) Agency officials will maintain liaison with officials of other Federal, State, regional and local development agencies to coordinate related programs to achieve rural development objectives.

(c) Agency officials shall cooperate with appropriate State agencies in making grants that support State strategies for rural area development.

(d) Funds allocated for use in accordance with this part are also to be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have an equal opportunity along with other rural residents to participate in the benefits of this program. This includes equal application of outreach activities of Field Offices.

(e) Federal statutes provide for extending the Agency financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the participant possesses the capacity to enter into legal contracts).

§ 1778.2 [Reserved]**§ 1778.3 Objective.**

The objective of the Emergency Community Water Assistance Grant Program is to assist the residents of rural areas that have experienced a significant decline in quantity or quality of water to obtain adequate quantities of water that meet the standards set by the Safe Drinking Water Act (42 U.S.C. 300f et seq.) (SDWA).

§ 1778.4 Definitions.

Emergency. Occurrence of an incident such as, but not limited to, a drought, earthquake, flood, hurricane, disease outbreak, or chemical spill.

Rural areas. Includes any area in any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States, located in any of the fifty States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

Significant decline in quality. A significant decline in quality of potable water is where the present community source or delivery system does not meet, as a result of an emergency, the current SDWA requirements. For a private source or delivery system a significant decline in quality is where the water is no longer potable as a result of an emergency.

Significant decline in quantity. A significant decline in the quantity is caused by a disruption of the potable water supply by an emergency. The disruption in quantity of water prevents the present source or delivery system from supplying potable water needs to rural residents. This would not include a decline in excess water capacity.

§ 1778.5 [Reserved]**§ 1778.6 Eligibility.**

(a) Grants may be made to public bodies and private nonprofit corporations serving rural areas. Public bodies include counties, cities, townships, incorporated towns and villages, boroughs, authorities, districts, and other political subdivisions of a State. Public bodies also includes Indian tribes on

Federal and State reservations and other Federally recognized Indian Tribal groups in rural areas.

(b) In the case of grants made to alleviate a significant decline in quantity or quality of water available from the water supplies of rural residents, the applicant must demonstrate that the decline occurred within two years of the date the application was filed with the Agency. This would not apply to grants made for repairs, partial replacement, or significant maintenance on an established water system.

§ 1778.7 Project priority.

Paragraphs (a) through (d) of this section indicate items and conditions which must be considered in selecting applications for further development. When ranking eligible applications for consideration for limited funds, Agency officials must consider the priority items met by each application and the degree to which those priorities are met.

(a) *Applications.* The application and supporting information submitted with it will be used to determine the proposed project's priority for available funds.

(b) *State Office review.* All applications will be reviewed and scored for funding priority using RUS Bulletin 1778-1. The State Program Official will request funds from the National Office, Attention: Assistant Administrator, Water and Waste, using RUS Bulletins 1778-1 and 1778-2. If an application cannot be funded, the State Program Official will be notified. Eligible applicants that cannot be funded should be advised that funds are not available.

(c) *National Office review.* Each year all funding requests will be reviewed by the National Office starting November 1 and will continue as long as funds are available except for the first year in which funds are made available for this grant program. A review of funding requests the first year will start 30 days after funds are made available. Projects selected for funding will be considered based on the priority criteria and available funds. Projects must compete on a national basis for available funds, and the National Office will allocate funds to State offices on a project by project basis.

(d) *Selection priorities.* The priorities described below will be used by the State Program Official to rate applications and by the Assistant Administrator of Water and Waste to select projects for funding. Points will be distributed as indicated in paragraphs (d)(1) through (d)(5) of this section and will be considered in selecting projects for funding. A copy of RUS Bulletins 1778-1 and 1778-2 used to rate applications, should be placed in the case file for future reference.

(1) *Population.* The proposed project will serve an area with a rural population:

- (i) Not in excess of 1,500—30 points.
- (ii) More than 1,500 and not in excess of 3,000—20 points.
- (iii) More than 3,000 and not in excess of 5,000—15 points.

(2) *Income.* The median household income of population to be served by the proposed project is:

- (i) Not in excess of 70% of the statewide nonmetropolitan median household income—30 points.
- (ii) More than 70% and not in excess of 80% of the statewide nonmetropolitan median household income—20 points.
- (iii) More than 80% and not in excess of 90% of the statewide nonmetropolitan median household income—10 points.
- (iv) Over 90% of the statewide nonmetropolitan median household income—0 points.

(3) *Significant decline.* Points will only be assigned for one of the following paragraphs when the primary purpose of the proposed project is to correct a significant decline in the:

- (i) Quantity of water available from private individually owned wells or other individual sources of water—30 points; or
- (ii) Quantity of water available from an established system's source of water—20 points; or
- (iii) Quality of water available from private individually owned wells or other individual sources of water—30 points; or
- (iv) Quality of water available from an established system's source of water—20 points.

(4) *Acute shortage.* Grants made in accordance with §1778.11(b) to assist an

established water system remedy an acute shortage of quality water or correct a significant decline in the quantity or quality of water that is available—10 points.

(5) *Discretionary.* In certain cases the Administrator may assign up to 30 points for items such as geographic distribution of funds, rural residents hauling water, severe contamination levels, etc.

§ 1778.8 [Reserved]

§ 1778.9 Uses.

Grant funds may be used for the following purposes:

- (a) Waterline extensions from existing systems.
- (b) Construction of new waterlines.
- (c) Repairs to an existing system.
- (d) Significant maintenance to an existing system.
- (e) Construction of new wells, reservoirs, transmission lines, treatment plants, and other sources of water.
- (f) Equipment replacement.
- (g) Connection and/or tap fees.
- (h) Pay costs that were incurred within six months of the date an application was filed with the Agency to correct an emergency situation that would have been eligible for funding under this part.

(i) Any other appropriate purpose such as legal fees, engineering fees, recording costs, environmental impact analyses, archaeological surveys, possible salvage or other mitigation measures, planning, establishing or acquiring rights associated with developing sources of, treating, storing, or distributing water.

(j) Assist rural water systems to comply with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) (FWPCA) or the SDWA when such failure to comply is directly related to a recent decline in quality of potable water. This would not apply to changes in the requirements of FWPCA or SDWA.

§ 1778.10 Restrictions.

- (a) Grant funds may not be used to:
 - (1) Assist any city or town with a population in excess of 10,000 inhabitants according to the most recent decennial census of the United States.

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(2) Assist a rural area that has a median household income in excess of the statewide nonmetropolitan median household income according to the most recent decennial census of the United States.

(3) Finance facilities which are not modest in size, design, cost, and are not directly related to correcting the potable water quantity or quality problem.

(4) Pay loan or grant finder's fees.

(5) Pay any annual recurring costs that are considered to be operational expenses.

(6) Pay rental for the use of equipment or machinery owned by the rural community.

(7) Purchase existing systems.

(8) Refinance existing indebtedness, except for short-term debt incurred in accordance with § 1778.9(h).

(9) Make reimbursement for projects developed with other grant funds.

(10) Finance facilities that are not for public use.

(b) Nothing in paragraph (a)(1) of this section shall preclude rural areas from submitting joint proposals for assistance under this part. Each entity applying for financial assistance under this part to fund their share of a joint project will be considered individually.

§ 1778.11 Maximum grants.

(a) Grants made to alleviate a significant decline in quantity or quality of water available from the water supplies in rural areas that occurred within two years of filing an application with the Agency cannot exceed \$500,000.

(b) Grants made for repairs, partial replacement, or significant maintenance on an established system to remedy an acute shortage or significant decline in the quality or quantity of potable water cannot exceed \$75,000.

(c) Grants under this part, subject to paragraphs (a) and (b) of this section, shall be made for 100 percent of eligible project costs.

§ 1778.12 [Reserved]

§ 1778.13 Set-aside.

(a) At least 70 percent of all grants made under these grant programs shall be for projects funded in accordance with § 1778.11(a).

(b) At least 50 percent of the funds appropriated for this grant program shall be allocated to rural areas with populations not in excess of 3,000 inhabitants according to the most recent decennial census of the United States.

§ 1778.14 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this part are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), as outlined in subpart E of part 1901 of this title.

(b) *Environmental requirements.* All projects must have appropriate environmental reviews in accordance with RUS requirements.

(c) *Uniform Relocation and Real Property Acquisition Policies Act* (42 U.S.C. 4601 *et seq.*) All projects must comply with the requirements set forth in 7 CFR part 21.

(d) *Flood and mudslide hazard area precautions.* If the project is located in a flood or mudslide area, then flood or mudslide insurance must be provided as required in subpart A of part 1806 of this title (RD Instruction 426.2).

(e) *Governmentwide debarment and suspension* (nonprocurement) and requirements for drug-free work place. All projects must comply with the requirements set forth in the U.S. Department of Agriculture regulations 7 CFR part 3017 and RD Instruction 1940-M.

(f) *Intergovernmental review.* All projects funded under this part are subject to Executive Order 12372 (3 CFR, 1983 Comp., p. 197), which requires intergovernmental consultation with State and local officials. These requirements are set forth in U.S. Department of Agriculture regulations 7 CFR part 3015, subpart V, and RD Instruction 1940-J.

§§ 1778.15—1778.20 [Reserved]

§ 1778.21 Application processing.

(a) To the extent possible, an application under this part will be approved or disapproved within 60 days of the date that a complete application and all related material is submitted to the Agency.

(b) The material submitted with the application should include the Preliminary Engineer Report, population and

median household income of the area to be served, description of project, and nature of emergency that caused the problem(s) being addressed by the project. The documentation must clearly show that the applicant has had a significant decline in the quantity and/or quality of potable water or an acute shortage of potable water and the proposed project will eliminate the problem. For projects to be funded in accordance with § 1778.11(a), evidence must be furnished that a significant decline in quantity or quality occurred within two years of filing the application with the Agency.

(c) The processing office should assist the applicant in application assembly and processing.

(d) Appropriate application review and approval procedures outlined in subpart B of part 1780 of this chapter.

(e) Each application for assistance will be carefully reviewed in accordance with the priorities established in § 1778.7. A priority rating will be assigned to each application by the State Program Official.

(f) When the National Office has allocated funds to the State for a project, applicable provisions outlined in subpart B of part 1780 of this chapter will be followed in preparation of the grant docket. This would include development of an operating budget showing that the applicant can meet all its obligations and provide the intended services.

(g) When favorable action will not be taken on an application, the applicant will be notified in writing by the State Program Official of the reasons why the request was not favorably considered. Notification to the applicant will state that a review of this decision by the Agency may be requested by the applicant in accordance with 7 CFR part 11.

(h) State Program Officials are authorized to approve grants made in accordance with this part and RUS Staff Instruction 1780-1.

(i) Funds will be obligated and approval announcement made in accordance with the provisions of subpart B of part 1780 of this chapter.

§ 1778.22 Planning development and procurement.

Planning development and procurement for grants made under this part will be in accordance with subpart C of part 1780 of this chapter. A certification should be obtained from the State agency or the Environmental Protection Agency if the State does not have primacy, stating that the proposed improvements will be in compliance with requirements of the SDWA.

§ 1778.23 Grant closing and disbursement of funds.

(a) Grants will be closed in accordance with § 1780.45 of this chapter.

(b) RUS Bulletin 1780-12, "Water or Waste Grant Agreement," will be executed by all applicants. State Program Officials are authorized to execute the agreement on behalf of the Agency.

(c) The grant will be considered closed on the date RUS Bulletin 1780-12 is signed by the Agency. The Finance Office will be notified of the grant closing date. The Agency will retain the original of the Grant Agreement.

(d) The Agency's policy is not to disburse grant funds from the Treasury until they are actually needed by the applicant. Grant funds will be disbursed by using multiple advances.

§§ 1778.24–1778.30 [Reserved]

§ 1778.31 Performing development.

(a) Applicable provisions of subpart C of part 1780 of this chapter will be followed in performing development for grants made under this part.

(b) After filing an application in accordance with § 1778.21 and when immediate action is necessary, the State Program Official may concur in an applicant's request to proceed with construction before funds are obligated provided the RUS environmental requirements are complied with. The applicant must be advised in writing that:

(1) Any authorization to proceed or any concurrence in bid awards, contract concurrence, or other project development activity, is not a commitment by the Agency to provide grant funds under this part.

(2) The Agency is not liable for any debt incurred by the applicant in the

event that funds are not provided under this part.

§ 1778.32 Grant cancellation.

The State Program Official may prepare and execute Form RD 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation," in accordance with the Forms Manual Insert. If the docket has been forwarded to OGC, that office should receive a copy of Form RD 1940-10. The applicant's attorney and engineer may be provided a copy of Form RD 1940-10. A copy should also be sent to the National Office, Attention: Water and Waste Processing.

§ 1778.33 [Reserved]

§ 1778.34 Grant servicing.

(a) Grants will be serviced in accordance with § 1951.215 of subpart E of part 1951 of this title and subpart O of part 1951 of this title.

(b) The grantee will provide an audit report in accordance with § 1780.47 of this chapter.

§ 1778.35 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this part. The initial and subsequent grants made to complete a previously approved project must comply with the maximum grant requirements set forth in § 1778.11.

§ 1778.36 [Reserved]

§ 1778.37 Forms, Instructions and Bulletins.

Bulletins, instructions and forms referenced are for use in administering grants made under this part and are available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250-1500.

§§ 1778.38—1778.99 [Reserved]

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PART 1780—WATER AND WASTE LOANS AND GRANTS

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